

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO: 7:10-CR-0093-BR

CHARLETTE D. JOHNSON

v.

UNITED STATES OF AMERICA

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ORDER

This matter is before the court on petitioner's *pro se* petition for relief pursuant to Federal Rule of Civil Procedure 60(b)(4) or, alternatively, the All Writs Act, 28 U.S.C. § 1651, (DE # 286), and supplement filed in support of that petition, (DE # 287). Petitioner claims this court lacked jurisdiction over this criminal case, and therefore, the judgment is void. The court construes the petition as a second or successive habeas corpus petition under 28 U.S.C. § 2255. See United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003); Gadsen v. United States, Nos. 2:97-cr-274-PMD, 2:14-cv-1907-PMD, 2015 WL 6724259, at *3-4 (D.S.C. Nov. 3, 2015). As such, petitioner must first seek authorization from the Fourth Circuit Court of Appeals before this court can consider the petition. See 28 U.S.C. §§ 2244(b), 2255(h). The petition is DISMISSED WITHOUT PREJUDICE. The court finds that petitioner has not made "a substantial showing of the denial of a constitutional right," 28 U.S.C. § 2253(c)(2), and therefore, a certificate of appealability is DENIED.

This 2 August 2017.



W. Earl Britt
Senior U.S. District Judge